

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS: 05-0043
Indiana Adjusted Gross Income Tax
For the Year 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Proposed Assessment – Indiana Individual Income Tax.

Authority: IC 6-8.1-5-1(b).

Taxpayer argues that he is not responsible for paying individual state income tax.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. Taxpayer did not file an Indiana income tax return for 2001. The Department of Revenue (Department) determined that taxpayer had received federal adjusted gross income during 2001. Therefore, the Department sent taxpayer a "Demand Notice for Payment."

Taxpayer responded with a letter stating that no tax was due. On a form letter provided by the Department, taxpayer checked as his "appropriate response" that there was an "Other reason" for not paying the proposed assessment.

In addition, taxpayer provided numerous "exhibits" purporting to establish that he was not subject to state income tax. Taxpayer concluded that "the Department is using erroneous information supplied to it by the Internal Revenue Service to make tax determinations regarding my case."

Subsequently, the Department responded to taxpayer's request under the "Freedom of Information Act" by providing taxpayer a copy of a form entitled "Income Tax Examination Changes" and a copy of the "Agreement on Coordination of Tax Administration."

Taxpayer's protest was assigned to the Hearing Officer. The Hearing Officer contacted taxpayer February 15, 2005, offering to schedule either an in-person or telephone hearing during which taxpayer would be provided an opportunity to explain the basis for his protest. Taxpayer responded by requesting information regarding the proposed assessment. A second copy of the information already provided taxpayer was forwarded to taxpayer on February 23, 2005. At the same time, taxpayer was again offered the opportunity to schedule an administrative hearing.

Taxpayer replied in a letter dated March 4, 2005, requesting a “point by point rebuttal of the facts” already provided to the Department. Specifically, taxpayer asked for the Department’s response to his “Determination letter of August of 2004.”

The Hearing Officer responded in a letter dated March 8, 2005, declining to offer a “point by point rebuttal” prior to the hearing. The letter again suggested that the taxpayer schedule a telephone or in-person hearing because “it provides [taxpayer] with an informal opportunity to clarify your objections to the proposed assessment.”

Taxpayer declined the opportunity to schedule the hearing, and a letter was sent to taxpayer March 29, 2005, repeating once again the offer to schedule an informal administrative hearing and provide taxpayer with the opportunity to clarify the basis for his protest. On May 18, 2005, taxpayer’s attorney sent a letter requesting “copies of any documentation you may have that give rise the Department’s inquiry of [taxpayer’s] taxable activity.” This was the first indication that taxpayer had obtained representation on his behalf. On May 25, taxpayer’s attorney was sent “a copy of each item in the [Department’s] file” and repeating the offer to schedule a hearing on the matter. On June 15, the Hearing Officer sent taxpayer’s attorney a letter again offering “to conduct an administrative hearing on this matter.” No response was received. On July 11, the Hearing Officer sent taxpayer’s attorney yet another letter offering to schedule an administrative hearing. No response was received; this Letter of Findings was written based upon the documents originally submitted by taxpayer.

DISCUSSION

I. Proposed Assessment – Indiana Individual Income Tax.

Taxpayer disputes the assessment of 2001 state adjusted gross income tax. Taxpayer has provided a copy of a letter he received from the Department of the Treasury. Taxpayer apparently regards this letter as conclusive of the proposition that he did not owe 2001 federal income tax. Taxpayer errs. The letter simply states that information regarding taxpayer’s 2001 federal tax return is under the jurisdiction of a different IRS office than the office taxpayer originally contacted.

In addition, taxpayer has supplied some 1,000 pages of documents which purport to support taxpayer’s argument that he is not subject to state income tax. The collection of documents begins with a lengthy “Determination Letter” citing to various federal authorities such as IRS Manuals, federal statutes, federal regulations, case law, international law, and the United States Constitution.

The remainder of taxpayer’s lengthy submission consists of copies of various court decisions, U.S. Treasury letters, federal tax forms, federal tax instructions, copies of the 1929 federal tax code, “highlights” of congressional debates, along with hundreds of pages from the Congressional Record. Taxpayer has not provided an explanation as to the relevancy of any of this material.

Taxpayer appears to expect the Department to evaluate the “Determination Letter” and the hundreds of pages of supporting documentation in order to divine the reason taxpayer is not responsible for paying state income tax. The Department must decline taxpayer’s offer.

Indiana tax law provides that, “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid.” IC 6-8.1-5-1(b). It is not the Department’s responsibility to piece together a coherent argument on taxpayer’s behalf. “The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.” *Id.* Taxpayer has not met that burden. The sheer volume of taxpayer’s documentation is not equivalent to a reasoned argument supporting taxpayer’s position.

FINDING

Taxpayer’s protest is denied.

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